

Remarks

In response to the non-final Office Action mailed June 15, 2005, the Applicant respectfully requests reconsideration of the rejections and that the case pass to issue in light of the amendments above and the remarks below.

The Examiner has set forth the following rejections: claims 1-3, 5, 7, 9-11, 13-16, and 18-20 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S.P.N. 6,591,173 to Nada (hereinafter the Nada patent). Claims 4, 6, 8, 12, and 17 are objected to as being dependent upon a rejected base claim but would be allowed if rewritten to include all of the limitations of the base claim and any intervening claims.

Rejection of Claims 1-3, 5, 7, 9-11, 13-16, and 18-20 Under 102(e) Over the Nada Patent

Independent claim 1 has been amended to include the allowed limitations of dependent claim 4, and as such, the Applicant respectfully submits that independent claim 1 is now in condition for allowance. In light of the amendments to independent claim 1, this rejection now applies to claims 5, 7, 9-11, 13-16, and 18-21, which includes new independent claim 21 and pending, amended independent claims 13 and 18.

Each of the pending independent claims includes limitations to a first control strategy associated with availability of a primary drivetrain and a second control strategy associated with unavailability of the primary drive train, wherein the second control strategy includes controlling power output of an electric motor of an auxiliary drive train.

The Nada patent merely discloses controlling vehicle speed provided by an electric motor, and not, the power output of the electric motor. The Examiner's attention is drawn to column 29, line 35, where the Nada patent states that torque is prohibited only after the vehicle reaches the maximum vehicle speed. This is a binary operation such that all torque values are permitted up to the maximum vehicle speed. This distinction is important to

differentiating the control of the Applicant's claimed invention.

The Applicant's claimed power control requires continuous control over torque and other motor power consumption influences under all operating conditions, and not just when a maximum vehicle speed is reached. Consequently, the Applicant respectfully submits that the Nada patent fails to disclose each element recited in pending independent claims 13, 18, and 21, and as such, independent claims 13, 18, and 21 and dependent claims 5, 7, 9-11, 14-16, and 19-20, which depend therefrom include all of the limitations thereof, are patentable and nonobvious over the Nada patent.

The Applicants respectfully submit dependent claims 5 and 19, 7 and 11, and 10, 16, and 20 are separately patentable. The Examiner is respectfully requested to independently specify the rejections thereto in more particularity, rather than continuing to set forth the unsupported, blanket rejections made in the Office Action. The Applicant submits these dependent claims are separately patentable for the following reasons: dependent claims 5 and 19 are separately patentable as the Nada patent fails to disclose a strategy that controls motor power as a function of battery state of charge; dependent claims 7 and 11 are separately patentable as the Nada patent fails to disclose a strategy that employs controlling motor operation as a function of motor speed, motor power, and battery state of charge; and dependent claims 10, 16, and 20 are separately patentable as the Nada patent fails to disclose a strategy that limits motor operation as a function of motor power and speed.

Conclusion

In view of the foregoing, the Applicant respectfully submits that each rejection has been fully replied to and traversed and that the case is in condition to pass to issue. The Examiner is respectfully requested to pass this case to issue and is invited to contact the undersigned if it would further prosecution of this case to issue.

Respectfully submitted,

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